

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

JAIR ALEJANDR BUSTOS, #49028-048

Petitioner,

v.

ACTION NO. 2:23cv488

JUSTIN ANDREWS, Warden,

Respondent.

FINAL ORDER

Petitioner Jair Alejandr Bustos (“Bustos”), a federal inmate housed in the Federal Correctional Institution Low in Petersburg, Virginia, filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 on October 3, 2023. ECF No. 1. Bustos asserts that the Bureau of Prisons (“BOP”) failed to properly apply credits that he has earned under the First Step Act towards his early release. *Id.* at 2. This matter was referred to the United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation.


The report and recommendation, filed February 21, 2024, recommends that Bustos’ petition be dismissed with prejudice. ECF No. 8. Each party was advised of the right to file written objections to the findings and recommendations made by the Magistrate Judge. *Id.* No objections have been filed.

The Court, having reviewed the record, does hereby adopt and approve the findings and recommendations set forth in the report and recommendation. The Court, therefore, **ORDERS** that the petition for a writ of habeas corpus, ECF No. 1, is **DISMISSED WITH PREJUDICE**.

Bustos has failed to demonstrate a “substantial showing of the denial of a constitutional right,” and, therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. *See Miller-El v. Cockrell*, 537 U.S. 322, 335–36 (2003).

Bustos is **ADVISED** that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. R. App. P. 22(b); Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a). **If Bustos intends to seek a certificate of appealability from the Fourth Circuit, he must do so within thirty (30) days from the date of this final order. Bustos may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.**

The Clerk shall mail a copy of this final order to Bustos and counsel of record for respondent.



Elizabeth W. Hanes
United States District Judge

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United States District Judge

Norfolk, Virginia
March 27, 2024